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Commission

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10 IN THE UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA
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14 WILD FISH CONSERVANCY; and WILD
15 SALMON RIVERS d/b/a THE
CONSERVATION ANGLER,

16 Plaintiffs,

17 v.

18 NATIONAL MARINE FISHERIES
19 SERVICE; JANET COIT, in her official
capacity as the Assistant Administrator for
20 NOAA Fisheries; UNITED STATES
DEPARTMENT OF
21 COMMERCE; GINA RAIMONDO, in her
official capacity as the United States Secretary
22 of Commerce; KELLY SUSEWIND, in his
official capacity as the Director of the
23 Washington Department of Fish & Wildlife;
BARBARA BAKER, in her official capacity
24 as a member of the Washington Fish &
Wildlife Commission; TIM RAGEN, in his
25 official capacity as a member of the
Washington Fish & Wildlife Commission;
26 JAMES ANDERSON, in his official capacity

Case No. 3:24-cv-05296-BHS

OREGON STATE DEFENDANTS'
UNOPPOSED MOTION TO WAIVE LOCAL
COUNSEL RESIDENCY REQUIREMENT

NOTING DATE: MAY 30, 2024

Oregon State Defs' Unopposed Motion to Waive
Local Counsel Residency Requirement - 1
Case No. 3:24-cv-05296-BHS

Department of Justice
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1 as a member of the Washington Fish &
 Wildlife Commission; JOHN LEHMKUHL, in
 2 his official capacity as a member of the
 Washington Fish & Wildlife Commission;
 3 MOLLY LINVILLE, in her official capacity
 as a member of the Washington Fish &
 4 Wildlife Commission; WOODROW MYERS,
 in his official capacity as a member of the
 5 Washington Fish & Wildlife Commission;
 STEVE PARKER, in his official capacity as a
 6 member of the Washington Fish & Wildlife
 Commission; MELANIE ROWLAND, in her
 7 official capacity as a member of the
 Washington Fish & Wildlife Commission;
 8 LORNA SMITH, in her official capacity as a
 member of the Washington Fish & Wildlife
 9 Commission; DEBBIE COLBERT, in her
 official capacity as the Director of the Oregon
 Department of Fish and Wildlife;
 10 KATHAYOON KHALIL, in her official
 capacity as a member of the Oregon Fish &
 11 Wildlife Commission; BECKY HATFIELD-
 HYDE, in her official capacity as a member of
 12 the Oregon Fish & Wildlife Commission;
 LESLIE KING, in her official capacity as a
 13 member of the Oregon Fish & Wildlife
 Commission; MARY WAHL, in her official
 14 capacity as a member of the Oregon Fish &
 Wildlife Commission; ROBERT
 15 SPELBRINK, in his official capacity as a
 member of the Oregon Fish & Wildlife
 16 Commission; MARK LABHART, in his
 official capacity as a member of the Oregon
 17 Fish & Wildlife Commission; VACANT
 SEAT, in their official capacity as a member
 18 of the Oregon Fish & Wildlife Commission;
 CLATSOP COUNTY FISHERIES; STEVE
 19 MESHKE, in his official capacity as the
 Natural Resources Manager for Clatsop
 20 County Fisheries; CLATSOP COUNTY
 OREGON; and DON BOHN, in his official
 21 capacity as the County Manager of Clatsop
 County Oregon
 22

23 Defendants.

MOTION

The Oregon State defendants, Debbie Colbert,¹ in her official capacity as the Director of the Oregon Department of Fish and Wildlife, and Commissioners Kathayoon Khalil, Becky Hatfield-Hyde, Leslie King, Mary Wahl, Robert Spelbrink, Mark Labhart, and Vacant Seat, in their official capacities as members of the Oregon Fish & Wildlife Commission (collectively, Oregon Defendants), move for waiver of the residency requirement for local counsel for purposes of sponsoring attorneys for *pro hac vice* admission contained in Local Rule 83.1. This motion is unopposed and is supported by the memorandum below.

MEMORANDUM IN SUPPORT

Local Rule 83.1 (d) requires that attorneys seeking to participate in a case *pro hac vice* be associated with local counsel who either resides in the Western District of Washington or has a physical office in the Western District. Defendants seek a waiver of the residency requirement to allow Carla Scott, who is admitted to practice in the Western District of Washington and the Attorney In Charge of the Oregon Department of Justice's (DOJ) Special Litigation Unit, to act as local counsel for purposes of seeking admission of additional DOJ attorneys *pro hac vice* in this matter.

District courts have inherent authority to control cases on their docket and waive requirements of the local rules. *See, e.g.*, Introduction to the Civil Rules (the local rules "apply to all civil proceedings before this court unless otherwise ordered in a specific case"),

<https://www.wawd.uscourts.gov/sites/wawd/files/042624%20WAWD%20Local%20Civil%20Rules%20-%20Clean.pdf>, last accessed May 22, 2024. Waiver of the residency requirement for

local counsel is appropriate in this case because the Oregon Defendants are all individuals who are employed by the State of Oregon, either as interim director of an agency or as members of a

¹ Pursuant to Fed. R. Civ. P. 25(d), Debbie Colbert, who was recently appointed Director of the Oregon Department of Fish & Wildlife, has been substituted for Davia Palmeri, the former Interim Director of the Oregon Department of Fish & Wildlife.

1 commission, and whose official acts in those capacities have been challenged by this lawsuit.

2 The Oregon DOJ is statutorily required to represent these individuals when acting in their official
3 capacities. ORS 180.220 describes the *exclusive* role of the Oregon DOJ when representing the
4 State:

5 (1) The Department of Justice shall have:

6 (a) General control and supervision of all civil actions and
7 legal proceedings in which the State of Oregon may be a
8 party or may be interested.

9 (b) Full charge and control of all the legal business of all
10 departments, commissions and bureaus of the state, or of
11 any office thereof, which requires the services of an
12 attorney or counsel in order to protect the interests of the
13 state.

14 (2) No state officer, board, commission, or the head of a
15 department or institution of the state shall employ or be
16 represented by any other counsel or attorney at law.

17 Thus, pursuant to statute, the Oregon Defendants are required to be represented by the Oregon
18 DOJ.

19 Moreover, Ms. Scott has been licensed to practice in the Western District of Washington
20 for years and is the Attorney in Charge of the Special Litigation Unit of Oregon DOJ. If
21 allowed, she will fulfill the responsibilities of local counsel as set forth in the local rules,
22 including attesting that she will be prepared to handle the matter in the event the applicants for
23 admission pro hac vice are unable to be present on any date scheduled by the court. LCR
24 83.1(d)(2).

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1 For these reasons, the Oregon Defendants respectfully request waiver of the residency
2 requirement to enable Ms. Scott to serve as local counsel in the above matter.

3 DATED May 30, 2024.

Respectfully submitted,

4 ELLEN F. ROSENBLUM
5 Attorney General

6 s/ Carla A. Scott
7 CARLA A. SCOTT #054725
8 Senior Assistant Attorney General
9 Trial Attorney
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Carla.A.Scott@doj.state.or.us
Of Attorneys for Defendants ODFW & OFWC

ORDER

THIS MATTER came to the attention of the undersigned Judge of the above-titled Court on the Oregon State Defendants' Unopposed Motion to Waive Local Counsel Residency Requirement. The Court, having reviewed the records and files herein, and having fully considered the same and found good cause exists therefore:

It is hereby ORDERED, ADJUGED, and DECREED that Oregon State Defendants' Unopposed Motion to Waive Local Counsel Residency Requirement is GRANTED.

DATED this 31st day of May, 2024.



BENJAMIN H. SETTLE
United States District Judge

Submitted by: Carla A. Scott
Senior Assistant Attorney General
Attorneys for Defendants ODFW & OFWC